

Notice of Allowability

Application No.

10/753,077

Examiner

EMEM EKONG

Applicant(s)

BODLEY, MARTIN REED

Art Unit

2688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the patent application filed on August 1, 2004.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Arguments

1. This is in response to Applicant's arguments filed on 12/22/05.

Drawings

2. New formal drawings are required in this application. See the attached Notice of Draftsperson's Patent Drawing Review for appropriate corrections.

Allowable Subject Matter

3. Claims 1-17 are allowed.
4. The following is an examiner's statement of reasons for allowance:

Consider claims 1, and 17, the best prior art found during the examination of the present application, Adams (U.S. Patent # 6,594,366 B1), fails to disclose the circuitry being further operable to apply a gain to the microphone output signal, the gain being varied based on the position of the microphone boom as sensed by the at least one sensor such that the gain is greater when the microphone boom is in the retracted position thereof than when the microphone boom is in the extended position thereof.

Adams disclose a headset comprising: a main body with an attachment structure constructed to attach the headset in an operative position to the head of a user; a speaker carried by the main body, the speaker being positionable adjacent a user's ear when the headset is attached in the operative position, the speaker being operable to

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output audible noise based on a speaker input signal transmitted to the speaker; a microphone boom carried by the main body and having a distal end portion; a microphone carried on the distal end portion of the microphone boom, the microphone being operable to receive audible noise and transmit a microphone output signal based on the received audible noise; the distal end portion being positioned further forwardly towards the mouth of the user when the headset is attached to the user's head in the operative position so as to be closer to the user's mouth in the extended position than in the retracted position; circuitry carried by the main body and connected to the speaker and microphone, the circuitry being operable to transmit and receive signals from a communications device, to transmit the speaker input signal to the speaker, and to receive the microphone output signal from the microphone to thereby establish communication between both the speaker and the microphone and the communications device; at least one sensor coupled to the circuitry for sensing a position of the microphone boom, however, it lacks the claimed microphone boom being movable between a retracted position and an extended position, gain being varied based on the retracted position and an extended position of the microphone boom as sensed by the sensor and no suggestion for varying gain based on position of microphone boom is provided by Adams, therefore, this limitation, is novel and unobvious in view of Adams and the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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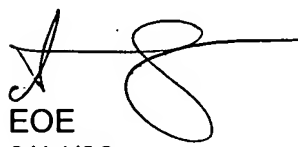
accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


EOE
3/14/06


NICK CORSARO
PRIMARY EXAMINER